

STATE OF CONNECTICUT

SITING COUNCIL

Re: The Connecticut Light and Power Company and ) Docket 272  
The United Illuminating Company Application for a )  
Certificate of Environmental Compatibility and )  
Public Need for the Construction of a New 345-kV )  
Electric Transmission Line and Associated Facilities )  
Between Scovill Rock Switching Station in )  
Middletown and Norwalk Substation in Norwalk, )  
Connecticut Including the Reconstruction of )  
Portions of Existing 115-kV and 345-kV Electric )  
Transmission Lines, the Construction of the Beseck )  
Switching Station in Wallingford, East Devon )  
Substation in Milford, and Singer Substation in )  
Bridgeport, Modifications at Scovill Rock )  
Switching Station and Norwalk Substation and the )  
Reconfiguration of Certain Interconnections ) March 23, 2004

OPPOSITION OF THE CONNECTICUT LIGHT AND POWER COMPANY AND  
THE UNITED ILLUMINATING COMPANY TO “THE TOWNS”  
MOTION TO DISMISS OR RESCHEDULE

INTRODUCTION

The Connecticut Light and Power Company (“CL&P”) and The United Illuminating Company (“UI”) (collectively “the Companies”) respectfully request that the Connecticut Siting Council (the “Council”) deny the request of sixteen municipalities (“the Towns”), as set forth in their “Motion to Dismiss, or, In the Alternative, To Reschedule Certain Deadlines and Hearings” dated March 22, 2004 (“the Motion to Dismiss”).<sup>1</sup> The Motion to Dismiss sets forth no new facts or argument and is, in effect,

---

<sup>1</sup> While Mr. Boucher represents only the Towns of Durham and Wallingford, he has once again filed a motion on behalf of a total of sixteen towns, including Durham and Wallingford but also including many municipalities whom he does not represent.

a request by the Towns to reargue the Council's March 17, 2004 ruling on the Towns' Motion to Compel dated March 5, 2004.

The Council at its meeting on March 17, 2004 ordered the Companies to provide responses to the interrogatories that remained outstanding as of March 16, 2004 (with the exception of CSC-022), and denied the remainder of the Towns' motion. The Companies have fully complied with the Council's order, and completed filing these responses on Friday, March 19, 2004.<sup>2</sup> Moreover, as discussed below, the specific correspondence between Mr. Boucher and the Companies establishes that any claim of alleged failure to comply with discovery requests is a gross mischaracterization of the underlying facts.

The primary relief requested in the Towns' motion – the dismissal of this proceeding – is obviously baseless. The alternative relief requested, namely, rescheduling of hearings and a delay in the dates for filing of prefiled testimony, also has no foundation. The request for delay is essentially identical to the relief requested in the Towns' Motion to Compel dated March 5, 2004. The Council denied that requested relief on March 17, 2004.<sup>3</sup>

The Companies have responded to each discovery request received as of March 17, 2004 (excepting CSC-22), and they have answered each relevant question thoroughly and accurately, while simultaneously protecting their rights against extraneous, burdensome requests through appropriate objections. While the Towns or their counsel may wish that the Companies provided different answers or that the Companies not

---

<sup>2</sup> Additionally, on March 22, 2004 the Companies provided responses to the Towns' fourth set of interrogatories, which were filed on March 18, 2004. It should be noted that neither Wallingford nor Durham has responded to CL&P's interrogatories dated March 8, 2004.

<sup>3</sup> The Council's March 17, 2004 ruling required the Companies to provide responses to the approximately eight outstanding interrogatories not previously answered, other than CSC-22. There was no mention of pending objections in the motion papers, and no discussion regarding any pending objections at the March 17<sup>th</sup> hearing, and the Council did not require the Companies to provide responses to interrogatories to which the Companies had previously objected.

object to the overbreadth of certain of the Towns' interrogatories, this is not a sufficient ground to dismiss the Application or to otherwise grant the extensive relief sought by the Towns.

#### INTERROGATORIES CITED IN THE TOWNS' MOTION

The Towns' Motion cites the following alleged failure to respond to discovery requests (see Motion to Dismiss at page 5):

- Questions 24, 26, and 32 of the Towns' first set of Interrogatories
- Questions 1, 2, 3, 11, 12, 13, 15, 16, and 17 of the Towns' first set of Interrogatories regarding requests for data used in the General Electric ("GE") Harmonic Studies.

The Town's Motion fails to provide the Council with a full and accurate description of the underlying facts:

#### Towns' First Set of Interrogatories, Questions 24, 26, and 32

Copies of the Companies' responses to Towns-01, Questions 24, 26, and 32 are attached hereto. The Companies objected to the portions of these requests that sought copies of: (a) correspondence between CL&P and/or UI and experts retained by the Companies to study issues regarding undergrounding option (Question 24); (b) correspondence between CL&P and/or UI and GE related to studies that GE performed (Question 26); and (c) correspondence between CL&P and/or UI and Burns & McDonnell related to the highway corridor study, as well as workpapers for this study.

The Companies objected to these requests on the grounds that they exceed the permissible scope of discovery in an administrative proceeding. Specifically, the Companies objected that:

This interrogatory is overly broad, unduly burdensome and goes beyond reasonable discovery and long-standing practice in Siting Council proceedings. Under the Uniform Administrative Procedure Act, a party has the opportunity to “inspect and copy *relevant* and *material* records, papers and documents not in the possession of the party or such agency, except as otherwise provided by federal law or any other provision of the general statutes...” Conn. Gen. Stat. § 4-177c(1) (emphasis added). CL&P and UI object to this interrogatory to the extent that the interrogatory does not seek relevant and material information. Accordingly, without waiving this objection, CL&P and UI are answering this interrogatory to the extent the interrogatory seeks information that will assist the Siting Council in determining whether the statutory criteria for granting a certificate of environmental compatibility and public need have been met in this proceeding.

It is important to note that Attorney Boucher has been aware for up to *three months* of the Companies’ objection to the production of correspondence and workpapers. (see, e.g., Companies’ response to Durham/Wallingford Set 1, Questions 1, 20, and 25.) The objections were originally filed in December 2003 and January 2004. Following discussion between counsel for the Companies and Mr. Boucher and several other counsel for certain of the Towns, UI’s counsel sent a letter dated February 26, 2004 to Attorney Boucher continuing these objections. The Companies have received no further correspondence or communication from Mr. Boucher on this issue – until the day before the hearings, nearly a month later. Moreover, it is important to put the Towns’ claims in context. To date, a total of 245 data requests have been directed to the Companies, and the Companies have filed responses to 235 of these requests. The responses that have not yet been filed are the responses to:

- CSC-022, which the Council specifically exempted from its March 17<sup>th</sup> order
- nine data requests filed by the South Central Connecticut Regional Water Authority received only a few days ago, on or about March 19, 2004.

Questions 1, 2, 3, 11, 12, 13, 15, 16, and 17 of the Towns' First Set of Interrogatories Regarding Requests for Data Used in the GE Harmonic Studies

The Towns also assert that they continue to be denied access to the proprietary GE model. However, the Towns' Motion fails to note that counsel for CL&P informed Mr. Boucher in a March 10, 2004 e-mail that the Towns' proposal regarding the GE Model was acceptable, and suggested that Mr. Boucher prepare a document memorializing this agreement. On March 22, 2004, Mr. Boucher forwarded a proposal to the Companies that added a new provision to which the Companies did not agree: that provision would require the Companies to pay for all studies that GE runs at the request of the Towns. The GE studies are expensive, and the Companies have no obligation whatsoever to fund these studies. The Towns' request is analogous to the Towns' forwarding their next bill from Synapse to the Companies for payment.

Any delay in the Towns' working with GE to run studies is solely the result of the Towns' own inaction.

EMF

With regard to the Towns' EMF interrogatories (contained within the Towns' second set of interrogatories), the Towns asked the Companies to provide responses to approximately 75 EMF-related questions in fourteen days. Having been in possession of the Companies' Application for approximately four months, the Towns made a strategic decision and elected to wait to propound their interrogatories and then established an unreasonable deadline for responses. Further, the Towns have failed to demonstrate any impact on their ability to participate in the March hearings regarding EMF. Moreover,

the Companies have responded to all of the Towns' EMF interrogatories, including those served upon the Companies on March 18, 2004.

The Towns' Motion also argues that they have been prejudiced by the Companies' March 15, 2004 filing in which the Companies submitted revised EMF measurements. It is the Companies' understanding that the Council contemplated that more than one hearing day will be required to allow all parties and intervenors to be heard on EMF matters. In light of the likely need for additional as-yet-unscheduled hearing days on EMF, there is clearly no prejudice to the Companies by the timing of the Companies March 15, 2004 EMF filing.

#### CONCLUSION

The Towns' Motion, filed the afternoon preceding the commencement of hearings, should be denied. The Companies have fully complied with the Council's order and with all reasonable discovery requests. The Companies' objections to the provision of correspondence, and similar objections to requests beyond the practice of this Council and beyond the limits of the Uniform Administrative Procedure Act, were made long ago. The fact that the Towns' counsel has chosen not to address these objections until the eve of hearings is not a basis for delay or rescheduling.

Respectfully submitted,

THE UNITED ILLUMINATING  
COMPANY

By: \_\_\_\_\_  
Bruce L. McDermott  
of Wiggin and Dana LLP  
Its Attorneys  
One Century Tower  
265 Church Street  
P.O. Box 1832  
New Haven, CT 06508-1832

THE CONNECTICUT LIGHT AND  
POWER COMPANY

By: \_\_\_\_\_  
Brian T. Henebry  
of Carmody & Torrance LLP  
Its Attorneys  
PO Box 1110  
50 Leavenworth St  
Waterbury, Connecticut 06721-1110

### CERTIFICATION

This is to certify that on this 23<sup>rd</sup> day of March, 2004, the original and twenty (20) copies of the foregoing was delivered by hand to the Connecticut Siting Council, 10 Franklin Square, New Britain, CT 06051, and one (1) copy was mailed, postage prepaid, or hand delivered on this 23<sup>rd</sup> day of March, 2004, to all other known parties and intervenors. Additionally, an electronic copy of the foregoing was provided to the Connecticut Siting Council and all other known parties and intervenors.

---

Bruce L. McDermott

## SERVICE LIST

Ms. Pamela B. Katz  
Chairman  
Connecticut Siting Council  
10 Franklin Square  
New Britain, CT 06051

Anthony M. Fitzgerald, Esq.  
Brian T. Henebry, Esq.  
Carmody & Torrance, LLP  
50 Leavenworth Street  
P. O. Box 1110  
Waterbury, CT 06721-1110

Linda L. Randell, Esq.  
Bruce L. McDermott, Esq.  
Wiggin and Dana, LLP  
One Century Tower  
New Haven, CT 06508-1832

Norwalk Assoc. of Silvermine  
Homeowners  
c/o Leigh Grant  
99 Comstock Hill Road  
Norwalk, CT 06850

The Honorable Robert W. Megna  
State Representative – 97<sup>th</sup> District  
40 Foxon Hill Rd. #54  
New Haven, CT 06513

The Honorable Al Adinolfi  
State Representative – 103<sup>rd</sup> District  
235 Sorghum Mill Dr.  
Cheshire, CT 06410

Eric Knapp, Esq.  
Branse & Willis, LLC  
41-C New London Turnpike  
Glen Lochen East  
Glastonbury, CT 06033-2038

Julie Donaldson Kohler, Esq.  
Hurwitz & Sagarin, LLC  
147 North Broad St.  
Milford, CT 06460

Peter G. Boucher, Esq.  
Halloran & Sage, LLP  
225 Asylum Street  
Hartford, CT 06103

Janice M. Small, Esq.  
Town Attorney  
Wallingford Town Hall  
45 South Main Street  
Wallingford, CT 06492

Ms. MaryAnn Boord  
First Selectwoman  
Durham Town Hall  
30 Townhouse Rd.  
Durham, CT 06422

Mr. Louis S. Ciccarello  
Corporation Counsel  
P. O. Box 798  
Norwalk, CT 06856-0798

Town of Westport  
c/o Ira W. Bloom, Esq.  
27 Imperial Ave.  
Westport, CT 06880

The Honorable Mary G. Fritz  
State Representative – 90<sup>th</sup> District  
43 Grove St.  
Yalesville, CT 06492

David A. Ball, Esq.  
Cohen & Wolf, P.C.  
1115 Broad Street  
Bridgeport, CT 06604

Deborah L. Moore, Esq.  
Legal Department  
Meriden City Hall  
142 East Main St.  
Meriden, CT 06450

Atty. Michael C. Wertheimer  
Assistant Attorney General  
Office of the Attorney General  
10 Franklin Square  
New Britain, CT 06051

The Honorable Raymond Kalinowski  
State Representative – 100<sup>th</sup> District  
P.O. Box 391  
Durham, CT 06422

Ms. Melanie J. Howlett  
Associate City Attorney  
Office of the City Attorney  
999 Broad Street  
Bridgeport, CT 06604

Ms. Trish Bradley, President  
Mr. Ed Schwartz, Treasurer  
Communities for Responsible Energy,  
Phase II  
45 Ironwood Lane  
Durham, CT 06422

Mr. Bruce Johnson  
Litigation Attorney  
Office of Consumer Counsel  
10 Franklin Square  
New Britain, CT 06051

The Honorable Themis Klarides  
State Representative – 114<sup>th</sup> District  
23 East Court  
Derby, CT 06418

Lawrence J. Golden, Esq.  
Pullman & Comley, LLC  
90 State House Square  
Hartford, CT 06103-3702

Anthony M. MacLeod, Esq.  
Whitman, Breed, Abbott & Morgan, LLC  
100 Field Point Road  
Greenwich, CT 06830

Arthur W. Gruhn, P.E.  
Chief Engineer, Bureau of Engineering  
And Highway Operations  
Department of Transportation  
2800 Berlin Turnpike, P.O. Box 317546  
Newington, CT Connecticut 06131-7546

Andrew W. Lord, Esq.  
Murtha Cullina LLP  
CityPlace I, 29th Floor  
185 Asylum Street  
Hartford, CT 06103-3469

Joaquina Borges King  
Assistant Town Attorney  
Hamden Government Center  
2750 Dixwell Avenue  
Hamden, CT 06518

Richard J. Buturla, Esq.  
Town Attorney  
Berchem, Moses & Devlin, PC  
75 Broad Street  
Milford, CT 06460

William J. Kupinse, Jr.  
First Selectman  
Easton Town Hall  
225 Center Road, P.O. Box 61  
Easton, CT 06612

The Honorable Kenneth A. Flatto  
First Selectman  
Independence Hall  
725 Old Post Rd.  
Fairfield, CT 06824

Mitchell R. Goldblatt  
First Selectman  
Town of Orange  
617 Orange Center Road  
Orange, CT 06477-2499

Timothy P. Lynch  
Deputy City Attorney  
City Attorney's Office  
245 deKoven Drive, P.O. Box 1300  
Middletown, CT 06457-1300

Timothy P. Lynch  
Deputy City Attorney  
City Attorney's Office  
245 deKoven Drive, P.O. Box 1300  
Middletown, CT 06457-1300

Honorable William A. Aniskovich  
State Senate – 12<sup>th</sup> District  
15 Grove Avenue  
Branford, CT 06405

David A. Reif  
Jane K. Warren  
Joel B. Casey  
McCarter & English, LLP  
CityPlace I  
Hartford, CT 06103

Robert E. Earley  
Connecticut Business & Industry Assoc.  
350 Church Street  
Hartford, CT 06103-1106

Monte E. Frank, Esq.  
Cohen and Wolf, P.C.  
158 Deer Hill Avenue  
Danbury, CT 06810

Honorable Derrylyn Gorski  
First Selectman  
Bethany Town Hall  
40 Peck Road  
Bethany, CT 06524-3378

David J. Monz  
Updike, Kelly & Spellacy, P.C.  
One Century Tower  
265 Church Street  
New Haven, CT 06510